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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

In the Matter of)	
ROY McTERNAN, D.D.S.)	Administrative Action
Licensed to Practice Dentistry)		CONSENT ORDER
in the State of New Jersey)	

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon receipt of information that Roy McTernan, D.D.S. had been arrested in connection with a drug investigation conducted jointly by the Clifton Police Department and the Passaic County Prosecutor's Office. The respondent and his counsel, Ernest M. Caposela, Esq., met with Deputy Attorney General Kathy Rohr at which time respondent acknowledged that he had purchased cocaine on more than one occasion during the period September to October 1992. Respondent agreed to submit to a substance abuse evaluation with Frederick Rotgers, Psy.D., Licensed Psychologist of the New Jersey Dental Association Chemical Dependency Program (C.D.P.).

The Board having reviewed the record in this matter including the written report submitted by Dr. Rotgers, and the

Board having been advised that respondent will be admitted to the Pre-Trial Intervention Program, and it appearing that respondent wishes to resolve this matter without resort to formal proceedings and for good cause shown;

IT IS, ON THIS 17th DAY OF FEBRUARY, 1993,

HEREBY ORDERED AND AGREED THAT:

1. The license of Roy McTernan, D.D.S. to practice dentistry in the State of New Jersey shall be expressly contingent upon continuing compliance with the following terms and conditions:

(a) Respondent shall enroll in the N.J.D.A. C.D.P. and shall comply with a monitoring program supervised by C.D.P. which shall include, at a minimum, the conditions set forth herein.

(b) Respondent shall have his urine monitored under the supervision of the C.D.P. on a random, unannounced basis, twice weekly. The urine monitoring shall be conducted with direct witnessing of the taking of the samples either from a volunteer or drug clinic staff as arranged and designated by the C.D.P. The initial drug screen shall utilize the EMIT technique and all confirming tests and/or secondary tests will be performed by gas chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The C.D.P. shall be responsible to assure that all urine samples are handled by a laboratory competent to provide these services.

All test results shall be provided in the first instance directly to the C.D.P., and any positive result shall be reported immediately by the C.D.P. to Agnes Clarke, Executive Director of the Board, or her designee in the event she is unavailable. The Board also will retain sole discretion to modify the manner of testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

Any failure by the respondent to submit or provide a urine sample within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event the respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from Dr. Frederick Rotgers or Dr. Barbara McCrady of the C.D.P. Neither the volunteer nor drug clinic staff shall be authorized to consent to waive a urine test. In addition, respondent must provide the C.D.P. with written substantiation of his inability to appear within two (2) days, e.g., a physician's report attesting that the respondent was so ill that he was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of the respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to

waive the test on that day. The C.D.P. shall advise the Board of every instance where a request has been made to waive a urine test together with the Program's determination in each such case.

The Board may in its sole discretion modify the frequency of testing or method of reporting during the monitoring period.

(c) Respondent shall attend support groups including the impaired professionals group and AA/NA at a frequency as recommended by the C.D.P. Respondent shall provide evidence of attendance at such groups directly to the C.D.P. on a form or in a manner as required by the Program. The C.D.P. shall advise the Board immediately in the event it receives information that respondent has discontinued attendance at any of the support groups.

(d) The C.D.P. shall provide quarterly reports to the Board in regard to its monitoring of respondent's program as outlined herein including, but not limited to, the urine testing and the attendance at support groups. The Program shall attach to its quarterly reports any and all appropriate reports and/or documentation concerning any of the monitoring aspects of the within program.

(e) Respondent shall attend therapy at a frequency as recommended by his counselor who shall be approved and/or appointed by the C.D.P. Respondent shall cause his therapist to provide quarterly reports directly to the Board with respect to his attendance and progress in therapy.

(f) Respondent shall not prescribe controlled

dangerous substances nor shall be possess such substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause. Respondent shall cause any physician or dentist who prescribed medication which is a controlled dangerous substance to provide a written report to the Board together with patient records indicating the need for such medication. Such report shall be provided to the Board no later than seven (7) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

(g) Respondent shall provide appropriate releases to any and all parties who are participating in the monitoring program as outlined herein as may be required in order that all reports, records, and other pertinent information may be provided to the Board in a timely manner.

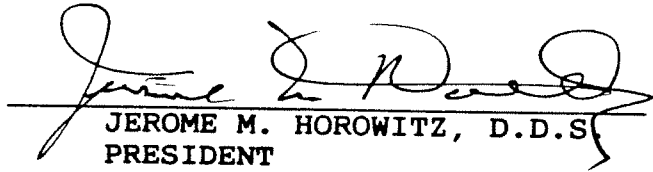
2. All costs associated with the monitoring program as outlined herein shall be paid directly by the respondent.

3. Respondent shall perform two hundred (200) hours of dental community service at a facility designated and/or approved by the Board. Said community service shall be completed within one (1) year of the entry date of the within Order. Respondent shall comply with the dental protocol and procedures as required at the designated facility and shall perform said services in accordance with the schedule established by respondent and the facility. In the event the performance of the community service at the first designated facility is discontinued for any reason

whatsoever respondent shall perform the balance of required hours at an alternate facility designated by the Board.

4. It is expressly understood and agreed that continued licensure with restrictions as ordered herein is contingent upon strict compliance with all of the aforementioned conditions. Upon the Board's receipt of any information indicating that any term of the within Order has been violated in any manner whatsoever, including, but not limited to, a verbal report of a confirmed positive urine or any other evidence that respondent has used an addictive substance, a hearing shall be held on short notice before the Board or before its representative authorized to act on its behalf. The proofs at such a hearing shall be limited to evidence of the particular violation at issue. Any confirmed positive urine test shall be presumed valid, and respondent shall bear the burden of demonstrating its invalidity.

5. Respondent may apply for modification of the terms and conditions of the within Order no sooner than one (1) year from the entry date herein.


JEROME M. HOROWITZ, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY

I have read and understand the within Order and agree to be bound by its terms. Consent is hereby given to the Board to enter this Order.


ROY McTERNAN, D.D.S.